

House File 399 - Introduced

HOUSE FILE 399

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A BILL FOR

1 An Act relating to the establishment of one or more facilities
2 for the housing of certain sex offenders in need of medical
3 and personal care.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 218.101 **Medical and personal care**
2 **facility for sex offenders.**

3 1. *a.* By July 1, 2016, the department of human services,
4 subject to funding, shall establish one or more facilities for
5 the treatment of sex offenders classified as a tier II or tier
6 III offender who require the type of medical and personal care
7 provided by a nursing facility, residential care facility, or
8 assisted living program, and are unable to obtain admission
9 to a private facility due to the persons' status as a sex
10 offender.

11 *b.* The department may use or establish a state facility
12 or facilities for the purpose described in this section, or
13 may conduct a request for proposals process to contract with
14 private facilities or programs to provide some or all of the
15 necessary services described in subsection 2 for eligible
16 persons identified in subsection 3. A request for proposals
17 shall identify the reimbursement rates and the necessary
18 training for the staff and the staffing requirements for the
19 facility or program.

20 2. The purpose of a medical and personal care facility for
21 sex offenders is to provide one or more of the following:

22 *a.* To provide the type of care provided in a nursing
23 facility as described in section 135C.1, subsection 13.

24 *b.* To provide the type of care provided in a residential
25 care facility as described in section 135C.1, subsection 19.

26 *c.* To provide the type of care provided in assisted living
27 programs as described in section 231C.2, subsection 2.

28 3. A person is eligible for admission to a medical and
29 personal care facility for sex offenders if the person meets
30 all of the following requirements:

31 *a.* The person is classified as a tier II or tier III sex
32 offender pursuant to section 692A.102.

33 *b.* The person requires the type of medical and personal care
34 provided by a nursing facility, residential care facility, or
35 assisted living program.

1 *c.* The person is unable to obtain admission to a private
2 nursing facility, residential care facility, or assisted living
3 program due to the person's status as a sex offender.

4 4. *a.* A person requesting admission to a facility shall
5 submit an application for admission to the department of human
6 services.

7 *b.* A representative of the department of inspections and
8 appeals, the department of corrections, or the department
9 of public safety, an administrator of a residential care
10 facility or nursing facility or the administrator's designee,
11 or a manager of an assisted living program or the manager's
12 designee, may also submit an application requesting admission
13 to a facility on behalf of a person with the permission of the
14 person or the person's guardian.

15 *c.* The application shall include a statement concerning
16 the actions the person requesting admission to a facility has
17 taken, or the steps taken on the person's behalf, to obtain
18 admission to a private nursing facility, residential care
19 facility, or assisted living program.

20 5. Upon application by or on behalf of a person meeting
21 the eligibility requirements, the department of human services
22 shall admit the resident or tenant to a medical and personal
23 care facility for sex offenders unless an alternative, adequate
24 placement for the person is arranged.

25 6. Upon admission to a state-operated medical and personal
26 care facility, the department of human services shall assess a
27 resident or tenant to identify payment options. The payor of
28 last resort for the facility is the medical assistance program
29 established pursuant to chapter 249A.

30 7. A resident or tenant may be discharged from a
31 state-operated medical and personal care facility if the person
32 is no longer required to register as a tier II or tier III sex
33 offender, if the department of human services determines the
34 person no longer requires the type of medical and personal care
35 provided by a nursing facility, residential care facility,

1 or assisted living program, or if an alternative, adequate
2 placement is arranged.

3 8. For purposes of this section, "*adequate placement*" means
4 a placement that will provide the level of care necessary for
5 an eligible person including the level of care provided by a
6 nursing facility, residential care facility, or assisted living
7 program.

8 9. A state-operated medical and personal care facility
9 offering the type of medical and personal care provided by
10 a nursing facility shall meet the requirements for Medicare
11 certification. A medical and personal care facility operated
12 by the state shall not be required to be licensed or certified
13 under chapter 135C or 231C.

14 10. The department shall establish by rule all of the
15 following requirements for a medical and personal care facility
16 for sex offenders:

17 a. The training requirements for staff at a facility.

18 b. The staffing plans for a facility.

19 c. The requirements of a safety plan for residents or
20 tenants of a facility. The rules shall include but are not
21 limited to all of the following:

22 (1) A plan for the safety of residents, tenants, and staff
23 of a facility.

24 (2) A plan for the safety of visitors to a facility.

25 (3) The responsibilities of employees of a facility in
26 implementing a safety plan.

27 d. The discharge policy and requirements of a state-operated
28 facility.

29 e. The security policy and the level of security that is
30 adequate for a facility.

31 11. The department of human services shall adopt rules to
32 administer this section.

33 EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill relates to the establishment of a facility to
2 provide for the housing and care of certain sex offenders in
3 need of medical and personal care. The bill requires the
4 department of human services (DHS) to establish one or more
5 facilities, by July 1, 2016, to house and care for tier II or
6 tier III sex offenders who need personal and medical care and
7 are unable to obtain admission to a private facility because
8 of the person's status as a sex offender. The bill states that
9 DHS may use or establish a state facility to provide care for
10 these persons or may conduct a request for proposals process to
11 contract with a private provider to provide services for these
12 persons.

13 The purpose of the establishment of the medical and personal
14 care facility for sex offenders is to provide the type of care
15 provided by a residential care facility, nursing facility, or
16 assisted living program.

17 The bill provides that a person is eligible for admission to
18 a medical and personal care facility for sex offenders if the
19 person is classified as a tier II or tier III sex offender, the
20 person requires the type of medical and personal care provided
21 by a nursing facility, residential care facility, or assisted
22 living program, and the person is unable to obtain admission
23 to a private nursing facility, residential care facility, or
24 assisted living program due to the person's status as a sex
25 offender. If a person admitted to a state-operated medical and
26 personal care facility for sex offenders no longer meets one of
27 these eligibility requirements, the patient may be discharged.
28 A person may also be discharged from a state-operated facility
29 if an alternative, adequate placement is arranged.

30 A person must submit an application for admission to a
31 medical and personal care facility for sex offenders to DHS.
32 An application may also be submitted on the person's behalf
33 with the person's permission. Upon the application of an
34 eligible person, the medical and personal care facility must
35 admit that resident or tenant unless an alternative, adequate

1 placement for the person is arranged.

2 The bill requires DHS to assess a resident or tenant's
3 payment options if accepted into a state-operated facility.
4 Medicaid is declared to be the payor of last resort.

5 The bill also mandates that a state-operated medical
6 and personal care facility for sex offenders providing
7 nursing facility care must meet requirements for Medicare
8 certification, but a state-operated medical and personal care
9 facility is not required to be licensed or certified under Code
10 chapter 135C or 231C.

11 The bill provides certain requirements that DHS must
12 establish by rule concerning the operations of a medical and
13 personal care facility for sex offenders. These requirements
14 include staff training requirements, staffing plans, safety
15 plan requirements, the discharge policy and requirements of a
16 state-operated facility, and the security policy of a facility.